

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

LISA TICE, on behalf of herself and on	§	
behalf of all others similarly situated,	§	
and FRANCINA BUTLER, opt in Plaintiff,	§	
Plaintiffs,	§	
	§	CIVIL ACTION NO.4:10-CV-00400-RAS
v.	§	
	§	
AOC SENIOR HOME HEALTH CORP. and	§	
BONNIE M. WEST,	§	
Defendants.	§	

**PLAINTIFF’S MOTION FOR LEAVE TO FILE ADDITIONAL
EVIDENCE IN SUPPORT OF THE MOTION TO CONDITIONALLY
CERTIFY A COLLECTIVE ACTION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff LISA TICE (“Tice” or “Plaintiff”), by and through her undersigned counsel and hereby files this Motion for Leave to File Additional Evidence in Support of the Motion to Conditionally Certify a Collective Action, and would respectfully show the Court as follows:

I.

Recently, another former nurse of AOC named Kristi Gaskill chose to join this lawsuit. Plaintiff seeks leave to file an additional affidavit from Ms. Gaskill in support of Plaintiff’s Motion to Conditionally Certify a Collective Action.

Ms. Gaskill’s testimony is important and material. For example, in July 2007 she had a conversation with the owner of AOC and Defendant Bonnie West in which Ms. West admitted that the company did not pay its nurses overtime of time and half because it allegedly would be “fiscally irresponsible.” Ms. Gaskill was also not paid time and a half for her overtime hours worked. She also

recently received a new pay-rate agreement that the company asked her to back date. It appears that AOC may be trying to cover up its overtime pay practices.

Good cause exists for Plaintiff to file this additional evidence as Ms. Gaskill only recently learned about this lawsuit. Plaintiff's counsel only recently spoke to Ms. Gaskill as Defendants have to date refused to turn over any additional names of nurses in discovery.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that this Court grant Plaintiff leave to file the affidavit of Kristi Gaskill.

Respectfully submitted,

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/s/ John F. Melton

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

Counsel has complied with the meet and confer requirement in Local Rule CV-7(h) and can confirm that this motion is opposed. On June 21, 2011 counsel for Defendant informed counsel for Plaintiff that they opposed any additional evidence regarding the motion for conditional class certification. These discussions have conclusively ended in an impasse leaving an open issue for the court to resolve.

/s/ John F. Melton

CERTIFICATE OF SERVICE

By my signature hereunder affixed, I certify that a true and correct copy of the foregoing document has been electronically filed using the CM/ECF system which will send notification, on this 8th day of July, 2011, to the following:

Carrie B. Hoffman
Gardere Wynn Sewell, LLP
1601 Elm Street, Suite 3000
Dallas, TX 75201

/s/ John F. Melton